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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)									
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		10/687,004	October 16, 2003								
		First Named Inventor									
		John Jerald Urlaub									
		Art Unit	Examiner								
		1772	Walter Aughenbaugh								
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table border="0"><tr><td><input type="checkbox"/> applicant/inventor.</td><td>_____</td></tr><tr><td><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td>Jason W. Johnston</td></tr><tr><td><input checked="" type="checkbox"/> attorney or agent of record. Registration number 45,675</td><td>864-271-1592</td></tr><tr><td><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td>February 15, 2007</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<input type="checkbox"/> applicant/inventor.	_____	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	Jason W. Johnston	<input checked="" type="checkbox"/> attorney or agent of record. Registration number 45,675	864-271-1592	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	February 15, 2007
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<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	February 15, 2007										

☒ \*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**PATENT**  
**ATTORNEY DOCKET NO: KCX-858 (18662)**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application: Urlaub, et al.	)	Examiner: Walter Aughenbaugh
	)	
Serial No: 10/687,004	)	Group Art Unit: 1772
	)	
Filed: October 16, 2003	)	Dep. Acct. No: 04-1403
	)	
Title: High Surface Area Material	)	Conf. No: 7451
Blends for Odor Reduction,	)	
Articles Utilizing Such Blends	)	Customer No: 22827
and Methods of Using Same	)	

Mail Stop AF  
Commissioner for Patents  
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Alexandria, VA 22313-1450

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Dear Sir:

In conjunction with the filing of a Notice of Appeal, Applicants respectfully request review of the basis of rejections of the pending claims.

Currently, claims 34-49, including independent claim 34, remain pending in the present application. Independent claim 34, for instance, is directed to a package comprising a paper product and a packaging material that encloses the paper product so that a headspace is defined therebetween. The package also contains metal modified nanoparticles having an effective particle diameter of less than about 500 nanometers. The metal modified nanoparticles are configured to neutralize gaseous or odorous compounds within the headspace. As a result of the claimed invention, odors

and other undesired gases may be removed from the headspace of, for instance, bathroom tissue and paper towel products.

*Independent Claim 34*

In the Office Action, independent claim 34 was rejected under 35 U.S.C. § 102(b) in view of U.S. Patent No. 5,204,111 to Handjani, et al. Handjani, et al. is directed to a process for producing alginate capsules by slowly introducing an aqueous solution of at least one alginate into an aqueous solution of at least one polyvalent metal salt (e.g., calcium chloride). Once formed by gelification, the alginate capsules are then extracted or removed from the salt solution. (See e.g., Cols. 1-2). Handjani, et al. indicates that the aqueous alginate solution may also contain certain cosmetic additives or active agents. Among a numerous laundry list of possible active agents, Handjani, et al. indicates that nanoparticles or nanocapsules may be employed.

Despite cursorily mentioning the potential use of nanoparticles as an active agent, however, Handjani, et al. fails to disclose various limitations of the present claims. Nowhere does Handjani, et al. disclose, for instance, that the nanoparticles are “modified” with a metal as required by the present claims. In stark contrast, the polyvalent metal ions of Handjani, et al. are used only to crosslink the *mannuronic units and guluronic units of the aliginate*. Handjani, et al. completely fails to disclose or suggest the modification (e.g., adsorption, covalent bonding, coordinate bonding, etc.) of *nanoparticles* with the metal ions.

The recent Advisory Action suggests that the *nanoparticles* of Handjani, et al. are “metal modified” because the *alginate capsules* are “metal modified.” Even if the alignate capsules are metal modified, however, the nanoparticles are in no way “metal

modified.” It is an axiom of claim construction that claims terms are construed in light of the specification. The present specification, for instance, indicates that a metal may be “adsorbed” onto the nanoparticles due to differences in electric potential, or bonded to the nanoparticles to form a “coordinate” and/or “covalent bond.” Clearly then, independent claim 34 requires more than a mere “blend” of an alginate capsule with nanoparticles in which the nanoparticles are not even associated with the metal.

In any event, Handjani, et al. completely fails to disclose a *packaging material* that encloses a *paper product* (e.g., tissue product or paper towel) as required by independent claim 34. To the contrary, Handjani, et al. is specifically directed to a *cosmetic composition containing alginate capsules*. One of ordinary skill in the art would readily recognize that a cosmetic composition containing “alginate capsules” is not a “paper product”, such as tissue products (e.g., bath, facial, or toilet tissues), paper towels, etc.

The recent Advisory Action states that this argument does not address the substance of the rejection of record as set forth in paragraph 4 of the Office Action dated November 15, 2006. Applicants note, however, that paragraph 4 of the Office Action expressly states that the “alginate capsules are a paper product because alginate is a well known substance used in the production of paper.” (p. 2). This is the only basis provided in the Office Action to support the Examiner’s position that Handjani, et al. discloses a *packaging material* that encloses a *paper product*. Thus, the fact that an “alginate capsule” is *not* a “paper product” is not only relevant to the patentability of independent claim 34, but it also specifically addresses the Examiner’s

basis of rejection. As such, for at least the reasons noted above, Applicants respectfully submit that independent claim 34 patentably defines over Handjani, et al.

*Dependent Claims 35-49*

Applicants also respectfully submit that, at least for the reasons indicated above, the dependent claims also patentably define over the reference(s) cited. The patentability of the dependent claims, however, certainly does not hinge on the patentability of the independent claims.

Dependent claims 46-49, for instance, are directed to specific aspects of the “paper product” (e.g., tissue product, paper towel, or paper product wrapped around a cylindrical core). With respect to claims 46 and 47, the Office Action indicates a “piece of paper coated with a composition containing an alginate” can be used as a tissue or paper towel. However, there is no disclosure in Handjani, et al. of a “piece of paper coated with an alginate.” With respect to claims 48 and 49, the Office Action does not give patentable weight to the limitation requiring that the “paper product is wrapped around a cylindrical core” because it is supposedly a “method for forming the article.” What is claimed, however, is not a method for wrapping a cylindrical core, but instead a package that contains a cylindrical core wrapped with a paper product. One of ordinary skill in the art would readily understand the product claimed by this limitation.

Thus, for at least the reasons set forth above, it is believed that the present application is in complete condition for allowance and, therefore, request favorable reconsideration and allowance. However, Examiner Aughenbaugh is invited and encouraged to telephone the undersigned, should any issues remain after consideration of this request.

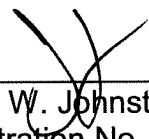
Appl. No. 10/687,004  
Pre-Appeal Brief Request for Review dated Feb. 15, 2007  
Reply to Office Action of Nov. 15, 2006

Please charge any additional fees required by this Request to Deposit Account

No. 04-1403.

Respectfully requested,

DORITY & MANNING, P.A.



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